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September 24, 1992 **RECEIVED**

**SEP 25 1992**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: MM Docket No. 92-7

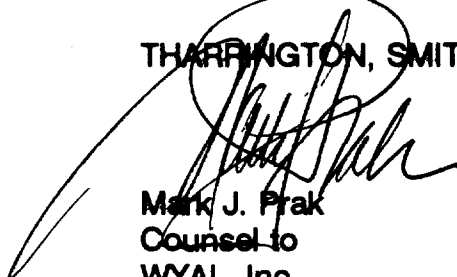
Dear Ms. Searcy:

Transmitted herewith, on behalf of WYAL Radio, Inc., permittee of Radio Station WWRT(FM), Scotland Neck, North Carolina, is an original and four copies of an "Opposition To Petition For Reconsideration" in the above-captioned proceeding.

If any questions should arise during the course of your consideration of this matter, it is respectfully requested that you communicate with this office.

Very truly yours,

THARRINGTON, SMITH & HARGROVE

  
Mark J. Prax  
Counsel to  
WYAL, Inc.

MJP/kf

Enclosures

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BEFORE THE  
**FEDERAL COMMUNICATIONS COMMISSION**

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Amendment of Section 73.202(b) )  
Table of FM Allotments )  
FM Broadcast Stations )

MM Docket No. 92-7  
RM-7879

(Scotland Neck and Pinetops,  
North Carolina) )

To: Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

**OPPOSITION TO  
PETITION FOR RECONSIDERATION**

WYAL Radio, Inc. ("WWRT"), permittee of Radio Station WWRT(FM), Scotland Neck, North Carolina, by its attorneys and pursuant to Section 1.106(g) of the Commission's Rules, hereby opposes the Petition For Reconsideration ("Petition") of the Commission's August 11, 1992 Report and Order, in the above-referenced proceeding, DA 92-971, filed by Radio Triangle East Company ("RTEC"), licensee of Radio Station WSAY-FM, Rocky Mount, North Carolina. In its Report and Order, the Commission ordered that effective September 24, 1992, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, is amended, with respect to the communities listed below to read as follows:

<u>City</u>	<u>Channel No.</u>
Pinetops, NC	238 C3
Scotland Neck, NC	--

In addition, the Commission ordered that pursuant to Section 316(a) of the Communications Act of 1934, as amended, the construction permit of WYAL Radio, Inc. for station WWRT(FM), Scotland Neck, North Carolina, be modified to specify operation on Channel 238 C3 at Pinetops, North Carolina, in lieu of Channel of 238A at Scotland Neck, North Carolina, subject to certain conditions.

WWRT requested the foregoing substitution, reallocation, and modification of its construction permit in its Petition for Rulemaking. In that Petition for Rulemaking, WWRT set out the history of the allotment to Scotland Neck, and the reasons that reallocation to Pinetops was preferred under § 1.420(i) of the Rules. RTEC, in its Comments, Motion to Strike, and Petition for Review, has offered no competent evidence to counter Pinetops' qualifications as a community worthy of a first local transmission service or the service improvement that would result from the proposed rulemaking.

RTEC's Petition is an attempt to rehash the same shopworn arguments that the Allocations Branch found unpersuasive. Given its lack of substance, the Petition is nothing more than an attempt to use the Commission's processes to slow the advent of new competition. RTEC's Petition faults the staff's analysis for not treating Pinetops as part of Rocky Mount based on Pinetops' smaller population and lack of

local telephone directory. As it has since filing its Comments, RTEC attempts to suggest that Pinetops is part of Rocky Mount — not by presenting facts, but by disparaging the information WWRT presented to the Commission. The weakness of its own position forced RTEC to attack the indisputable and conjure up the implausible. As argued in WWRT's Reply Comments, RTEC's unilateral attempts to "annex" Pinetops to Rocky Mount does not square with the facts. Pinetops, North Carolina, is not part of Rocky Mount, nor is it adjacent to Rocky Mount, nor is it part of the Rocky Mount Urbanized Area.

RTEC argues that "the Bureau ignored the reality of the situation that the Pinetops station would in fact be a Rocky Mount, North Carolina station." See Petition, p. 1. This is not so. RTEC has failed to dispute any of the following facts on which the Commission's decision was grounded:

- (1) Pinetops is an incorporated community.
- (2) Pinetops has its own local government consisting of five Commissioners.
- (3) Pinetops is served by its own police department and rescue squad.
- (4) Pinetops has its own post office.
- (5) Pinetops has its own public schools.
- (6) Pinetops has approximately ten churches.
- (7) Pinetops supports approximately fifty businesses.
- (8) Pinetops has three manufacturing centers.
- (9) Pinetops has its own library and community center.

As additional support for the appropriate nature of the reallocation to Pinetops, WWRT offered pages from Pinetops telephone listings, which included numerous entries with the "Pinetops" prefix. RTEC's rebuttal was that the Pinetops telephone listings are part of a larger telephone book that included other communities.

The Allocations Branch properly found this unpersuasive. RTEC's Petition is equally unpersuasive. RTEC's Petition offers only a rehash of arguments previously rejected.

### **CONCLUSION**

For the foregoing reasons, and based on the record in these proceedings, RTEC's Petition For Reconsideration should be denied.

Respectfully submitted,

WYAL RADIO, INC.

By: 

Mark J. Prak  
Daniel W. Clark

Its Attorneys

September 24, 1992

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## CERTIFICATE OF SERVICE

I, Kathryn P. Freese, a legal secretary for the law firm of Tharrington, Smith & Hargrove, hereby certify that as of this 25th day of September, 1992, a copy of the foregoing OPPOSITION TO PETITION FOR RECONSIDERATION was served upon the parties listed below in the manner indicated:

### Hand Delivery:

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Kathryn Freese